

**REGULAR MEETING OF THE CARBON COUNTY PLANNING
BOARD**

JANUARY 16, 2024 TUESDAY 7:00 PM

**CARBON COUNTY PERSONAL SERVICES BUILDING
10 OAKES AVENUE SOUTH
RED LODGE, MT**

A. CALL TO ORDER

B. ROLL CALL

C. ELECTION OF OFFICERS

Chair, Vice-Chair, Executive Secretary

D. APPROVAL OF MINUTES OF PREVIOUS MEETING

October 17, 2023

E. PUBLIC HEARINGS

None

F. REGULAR BUSINESS

Narrow Gate Subdivision – Discussion and
Recommendation to Commission

G. PETITIONS & COMMUNICATION FROM AUDIENCE

H. WRITTEN COMMUNICATIONS

- I. REPORTS FROM PLANNING BOARD MEMBERS AND COMMITTEES**
- J. STAFF REPORTS**
- K. ADJOURN**

Carbon County Planning Board
October Meeting
10-17-23

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson

- B. Roll Call
 - Present: Gordy Hill, Clinton Giesick, Betsy Scanlin, Clint Peterson, Dean Webb, Angela Kallevig, Mike Hayes, Skip Bratton (by phone), Forrest Mandeville
 - Audience: see attached sign-in sheet

- C. Approval of 9-12-23 Minutes
 - Betsy moved to approve. Clint second.
 - Motion passed unanimously

- D. Public Hearings
 - *See Regular Business*

- F. Regular Business
 - *Graham Subdivision South*
 - 5 lot subdivision
 - 42.28 acres total
 - Located on East Bench Road
 - Each lot will have its own well and septic
 - No irrigation rights exist for the 5 parcels
 - Lots will be accessed by a new gravel road, ending in a cul-de-sac
 - Brief discussion of 2020 Growth Policy as relevant to this application
 - An easement through a neighboring property currently provides potential access to an adjacent undeveloped parcel to the north
 - Betsy Scanlin
 - Will the undeveloped north parcel become land-locked if the current application is approved as-is?
 - A new road between lots 4&5 leading to the undeveloped north parcel would be over 1000 ft. long, potentially creating the need for a variance
 - Skip Bratton
 - If lots 4&5 are sold without an easement for the north parcel, future development of the parcel would be difficult due to geographic conditions
 - Current easement for the north parcel is through steep terrain

- Clint Peterson
 - Discussion of reduced ag land availability due to development
- A finding was established that states an easement through lots 4&5 would help ensure future access to the north parcel. However, this will be up to the developer. The current application does not pertain to the north parcel.
- Angela moved to recommend Commissioner's approval with findings and conditions as amended. Betsy second.
 - Motion passed
 - 7 yes. 1 no.

G. Audience Communication

▪ *Graham Subdivision South*

- Brent Moore – Interstate Engineering
 - Existing easement for north parcel is not being used for this project
 - Landowner would be willing to establish an additional easement between lots 4&5
- Kevin Nichols
 - Question regarding covenants for proposed subdivision
 - How will utilities be provided? Overhead or underground?
- Daniel Beach
 - Owner of neighboring parcel where north parcel access currently exists
 - Would prefer if north parcel access stayed within proposed subdivision
 - Has a pond that is filled from a waterway passing through Lot 1
 - Pond water source is most likely a spillway from nearby Cartwright Ditch and will not be affected

H. Written Communication

- Letter from Ryan Brajcich resigning from the Planning Board

I. Committee Reports

- Carbon County Conservation District
 - An new full time Administrator is now in place at the Joliet office

J. Staff Reports

- None

K. Adjourn Meeting

- 8:20 pm
- Next meeting scheduled for 12-19-23

Narrow Gate subdivision

jujumcvay@aol.com <jujumcvay@aol.com>

Wed 1/3/2024 5:36 PM

To:Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>

Cc:roylynzimm@aol.com <roylynzimm@aol.com>

Dear Mr. Mandeville,

The neighborhood has received a notice of proposed subdivision named narrow gate located in laurel on bus lane. We have a few questions regarding this proposal. Thank you for answering our questions.

1. The letter states only one house to be built on lot 1 with no other immediate plans for development. Is this the case, or plans for further development?
2. The letter suggest permission from Rio Vista HOA to use bus lane. We have spoken to the HOA and no permission was ever granted. Are you aware of this?
3. There are plans for a well for home use and irrigation use. We are concerned about existing homeowner wells will be impacted, especially if further development will take place. We are concerned about losing our water.

Thank you for your attention to this matter,
Joanna and Evan Bell

[Sent from the all new AOL app for iOS](#)

Re: Narrow Gate Subdivision

Burns Davison <davison14@outlook.com>

Wed 1/3/2024 12:37 PM

To:Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>;jujumcvay@aol.com <jujumcvay@aol.com>;
roylynzimm@aol.com <roylynzimm@aol.com>

The current well, shown on the plat of proposed Lot 1, is for exclusive use by 4 homes in the original Konoske subdivision just north of the north property boundary of lot 1 as a multi user well. The water from the well is for domestic use only and each home has a 2000 gallon cistern to supplement the well as water is limited. Irrigation is via one share for each lot from the Whitehorse ditch.

It is totally inappropriate for Mr. Konoske to propose to sell an adjacent parcel, twice the size of the lots in his original subdivision, and not provide sufficient water rights, from those held by himself, to irrigate the lot. Thereby requiring use of water from an additional well, hauling in water for irrigation use, or not irrigating at all. Water from an additional well on Lot 1, proposed, will be the same water as feeds the existing multi user well and the well on Konoske subdivision lot 2. Such use for irrigation will jeopardize the integrity of the existing wells.

All lots in this new proposed subdivision should have similar water use restrictions as are in the original Konoske subdivision. Paragraph one above.

From: Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>

Sent: Friday, December 29, 2023 3:56 PM

To: Burns Davison <davison14@outlook.com>

Subject: Re: Narrow Gate Subdivision

To legally use water from the White Horse ditch, the owner would need to work through the ditch company to obtain proper rights. Alternatively, they could irrigate from a well. The state does not require a water right be obtained for a well unless the combined appropriation would need to be more than 10-acre-feet per year in volume.

Thanks,

Forrest J. Mandeville, AICP
Owner/Planner
Forrest Mandeville Consulting
PO Box 337
Columbus, MT 59019
Forrest@ForrestMandevilleConsulting.com
Phone: (406) 690-1933
www.ForrestMandevilleConsulting.com

From: Burns Davison <davison14@outlook.com>

Sent: Friday, December 29, 2023 3:10 PM

To: Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>

Subject: Re: Narrow Gate Subdivision

Thank you for your reply.

If a personal residence were constructed on lot 1 and no water right granted by Mr. Konoske would that person be able to obtain a water right from the white horse ditch for irrigation or would water have to be supplied by the new well or some other means?

From: Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>

Sent: Friday, December 29, 2023 2:07 PM

To: davison14@outlook.com <davison14@outlook.com>

Subject: Narrow Gate Subdivision

Mr. Davison,

I received your questions regarding the Narrow Gate Subdivision. I believe Konoske Ranch Subdivision was preliminarily considered as a name, but they are proceeding with Narrow Gate Subdivision as the name of the development.

The well and water system documents you referenced were included with the application. The County requires a subdivision guarantee from a title company to be submitted with the preliminary plat application, which noted the existence of those documents and the County does have copies. Existing easements will need to be shown on any final plat so as not to abridge those previous agreements. I will note that the County does not interpret or enforce private agreements.

The subdivision is designed for two residential lots. This includes the current home on the site, so the subdivision, if approved, would create one additional residential lot. Additional subdivision is theoretically possible but is subject to additional review. I am unaware of any plans to further divide the property.

Test pipes are typically done to determine soil types and groundwater level, which is required through the State Department of Environmental Quality (DEQ) for water, wastewater, solid waste, and stormwater drainage provisions. Lot 1, being under 20 acres, is subject to DEQ review.

The applicant is proposing a new individual well and a drainfield for Lot 1. The drainfield is required to be outside of the 100-foot isolation zone of any wells.

The County requires any irrigation ditches be provided easement on the final plat. The developer is proposing to retain water rights with Lot 2, and not transfer any to Lot 1.

The applicant has indicated they have permission from the Rio Vista HOA to use Bus Lane. The County requires the developer provide legal and physical access to the subdivision.

I hope that helps answer some of your questions. The Planning Board will consider this during their meeting on January 16, at 7:00pm, in the conference room of the Carbon County Personal Services Building located at 10 Oakes Ave. S., in Red Lodge, and you or any other interested parties are certainly welcome to provide input or ask questions at the meeting. If you have specific comments to provide ahead of time, you can email any comments to me and I will provide them to the Planning Board.

The Planning Board will make a recommendation to the County Commissioners, who have the final decision making ability.

Let me know if you have any questions.

Thank you,

Forrest J. Mandeville, AICP
Owner/Planner
Forrest Mandeville Consulting
PO Box 337
Columbus, MT 59019
Forrest@ForrestMandevilleConsulting.com

Phone: (406) 690-1933

www.ForrestMandevilleConsulting.com

US 212 Projects Update - January 2024

Sloane Stinson <sloane@bigskypublicrelations.com>

Wed 1/3/2024 9:04 AM

To:Sloane Stinson <sloane@bigskypublicrelations.com>

Good morning,

Below are the latest updates for the US Highway 212 (US 212) projects between Red Lodge and Boyd.

US 212 Red Lodge – Robinson to Two Mile

The Robinson to Two Mile project will reconstruct one and a half miles of US 212 from just south of Robinson Lane to just north of Two Mile Bridge Road in Red Lodge.

Improvements planned include 12-foot-wide northbound and southbound travel lanes, a 14-foot-wide two-way left-turn lane, six-foot-wide paved shoulders, and a single-lane roundabout at the intersection of US 212 with Two Mile Bridge Road. A complete list of improvements is available on the project webpage at www.mdt.mt.gov/pubinvolve/us212robinson/.

The Montana Department of Transportation (MDT) and engineering design consultant Sanderson Stewart are in the final stages of designing the Robinson to Two Mile project, and the right-of-way acquisition phase is almost complete. This project is anticipated to be the first of the three US 212 projects to be constructed between Red Lodge and Boyd.

A construction start date has yet to be determined for this project. Construction will be scheduled once the necessary right-of-way has been acquired and funding becomes available. Project scheduling, contractor availability, economic conditions, and other unforeseen factors can also impact this timeline.

An open house will be scheduled before construction, where project plans and the scope of work will be shared, and the community will have the opportunity to ask questions directly to the project team.

For more information on the US 212 Red Lodge - Robinson to Two Mile project, visit <https://www.mdt.mt.gov/pubinvolve/us212robinson/>.

US 212 – Red Lodge to Roberts

Progress continues on the Red Lodge to Roberts project. MDT staff will soon complete the right-of-way acquisition phase. Once complete, Sanderson Stewart will finalize any road plan revisions that result from the right-of-way negotiations.

Funding for the project has yet to be secured; therefore, a construction start date has yet to be determined.

For more information on the Red Lodge to Roberts project, visit www.mdt.mt.gov/pubinvolve/us212redlodge/.

US 212 – Roberts to Boyd

Due to project scheduling, the size and cost of the project, and the unavailability of funding, the Roberts to Boyd project has been indefinitely put on hold. With the scope of work report complete, the project has been paused at an appropriate time and will move forward again as soon as funding is available. MDT will continue to work to find the resources to complete the project and will notify the public when this happens.

To learn more about the Roberts to Boyd project, visit www.mdt.mt.gov/pubinvolve/us212roberts/.

Please feel free to reach out with thoughts and questions at any time. You can call the project hotline at 406-207-4484, operating Monday through Friday from 9 a.m. to 5 p.m., or email me at sloane@bigskypublicrelations.com.

Don't Crowd the Plow

While driving, be on the lookout for snowplows and give operators room to work. Many plows are hit by private vehicles each winter, with the potential to cause harm to all parties involved. The plow truck and operator are taken out of service immediately following an incident.

Drive safely this winter and keep these tips in mind:

- Don't pass a plow when the TowPlow is deployed. The operator will periodically rotate the TowPlow back in line with the truck to allow vehicles to pass.
- Be aware that where there is one plow working, others may be nearby. The snow cloud created by one plow may obscure the presence of additional plows in adjacent lanes.
- When approaching a snowplow from the rear, reduce speed immediately.
- When approaching an oncoming plow, don't crowd the centerline.
- Be patient. Plow operators know where they can pull over to let vehicles pass, but remember, the road in front of the plow is likely not as clear as the road behind it.

MDT has tools to help plan for conditions so you can reach your destination safely. Find more plow safety information and winter driving tips

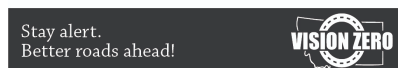
at <https://mdt.mt.gov/visionzero/people/winterdriving.aspx>. Current construction information, width restrictions, and road conditions throughout Montana can be found at [\[511mt.net\]](http://511mt.net).

Best wishes,

Sloane Stinson

Big Sky Public Relations, on behalf of the Montana Department of Transportation

SLOW FOR THE ZONE.
GIVE WORKERS A BRAKE.



Alternative accessible formats of this document will be provided on request. Persons who need an alternative format should contact the Office of Civil Rights, Montana Department of Transportation, 2701 Prospect Avenue, PO Box 201001, Helena, MT 59620. Telephone 406-444-5416 or Montana Relay Service at 711.

Sloane Stinson

Account Executive

Big Sky Public Relations

406-880-1057

sloane@bigskypublicrelations.com

www.bigskypublicrelations.com

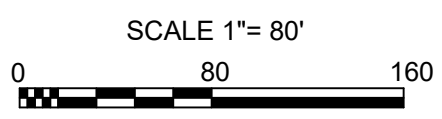
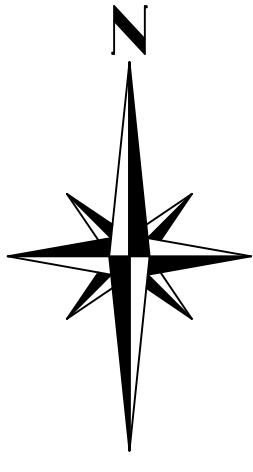
PRELIMINARY PLAT OF
NARROW GATE SUBDIVISION

A FIRST MINOR SUBDIVISION LYING IN THE REMAINDER OF
CERTIFICATE OF SURVEY NO. 1859 CO LYING IN THE NE1/4SW1/4 AND
SE1/4NW1/4 OF SECTION 6, T.3S., R.24E., P.M.M.,
CARBON COUNTY, MONTANA

SURVEYED BY: RED LODGE SURVEYING LLC.
PO BOX 986 | 606 S GRANT AVE
RED LODGE, MT 59068

SURVEYED IN: OCTOBER OF 2022

LANDOWNER: KONOSKE LAND AND LIVESTOCK LLC



CERTIFICATE OF DEDICATION AND LEGAL DESCRIPTION:

I, the undersigned landowner, do hereby certify that I have caused to be surveyed, subdivided and platted into lots, as shown by the plat hereunto included, the perimeter boundary of which is described as follows:
That part of the NE1/4SW1/4 and SE1/4NW1/4 of Section 6, T.3S. R.24E., P.M.M., Carbon County, Montana, shown as Remainder of Certificate of Survey No. 1859 CO, on file in the office of the Clerk and Recorder of Carbon County under Document No. 311188. Containing 33.77 acres more or less and all according to the attached plat. Subject to easements and/or rights-of-way of record, apparent on the ground, and/or reserved per this survey.

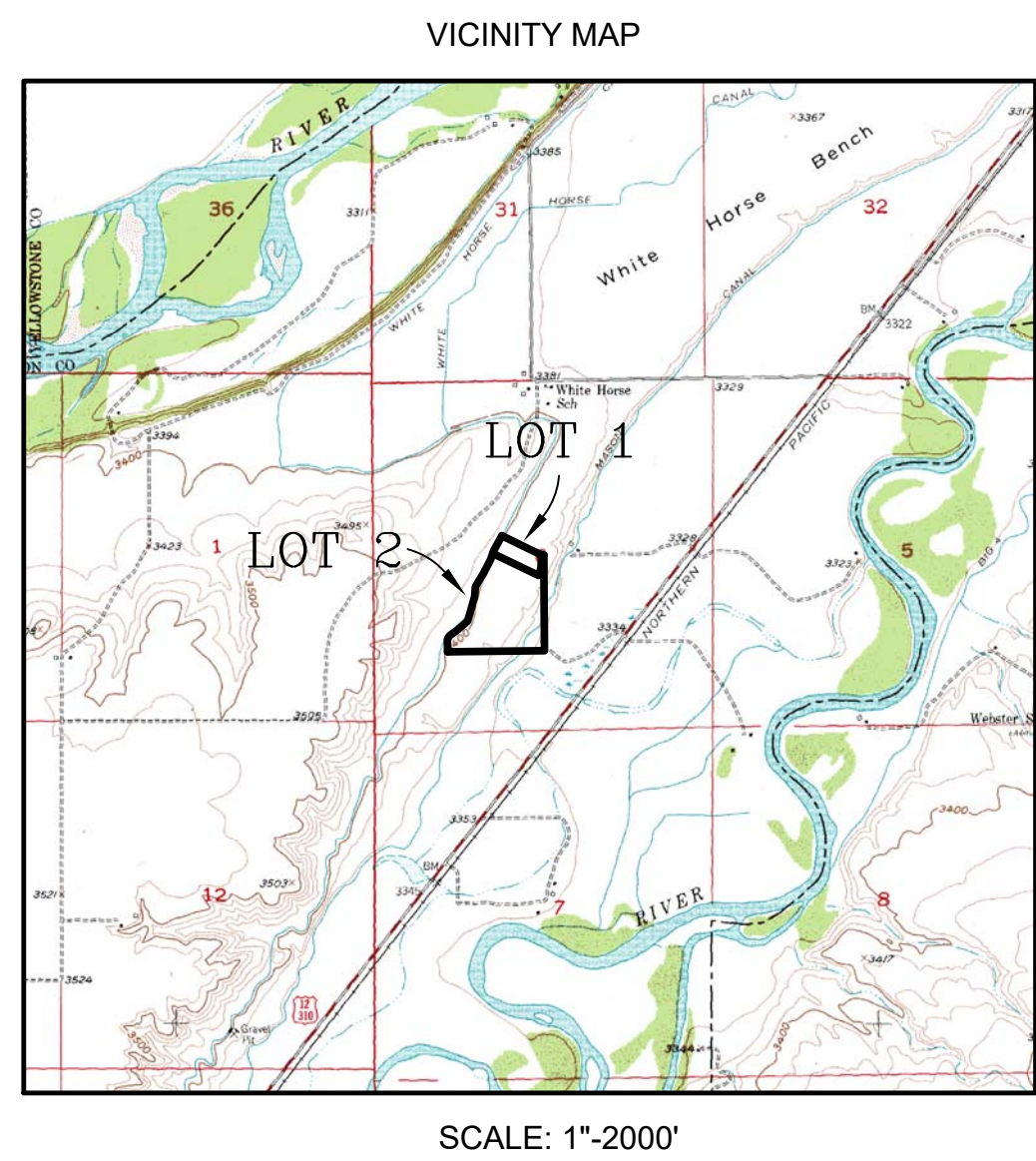
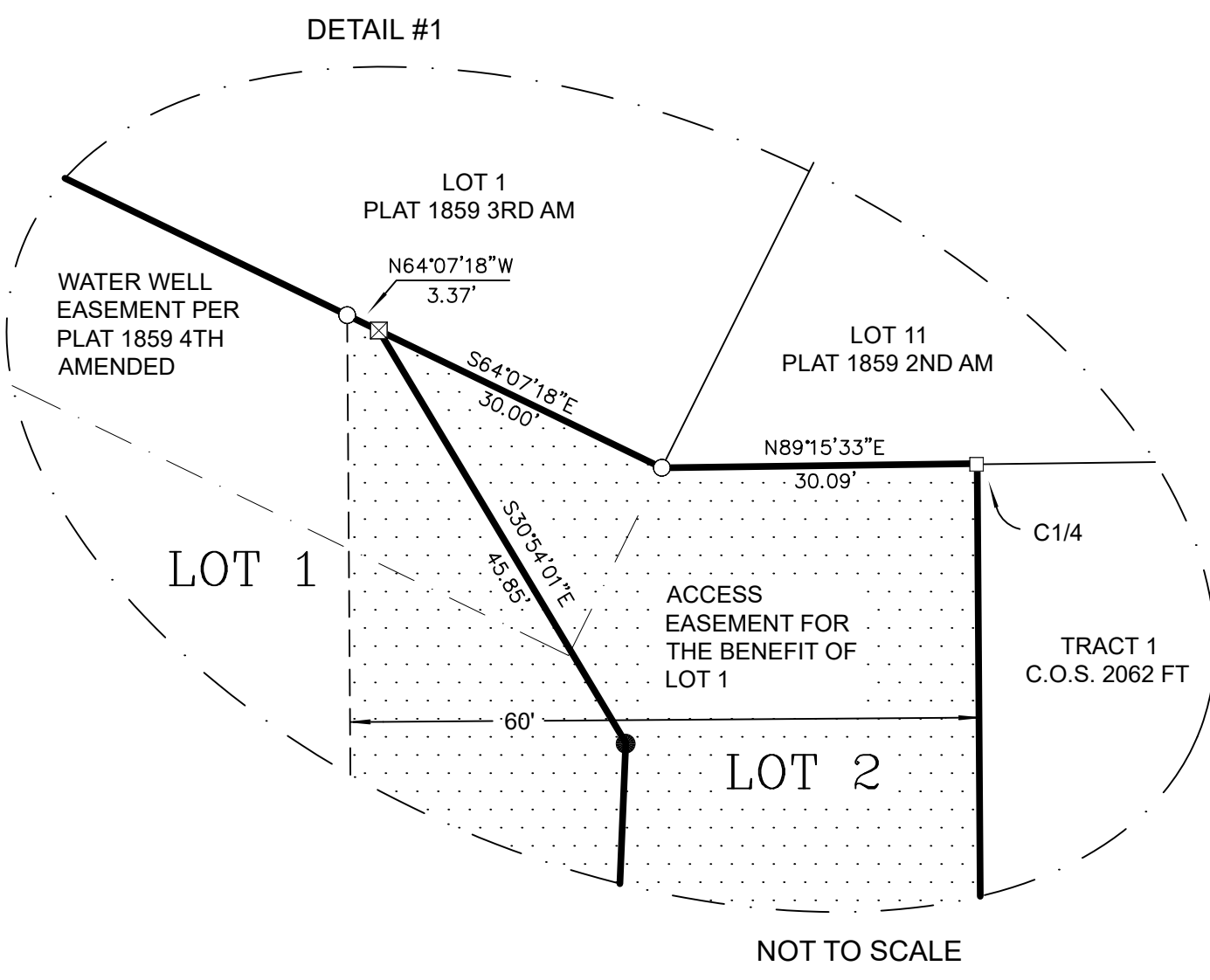
Legal and physical access is provided each lot per 76-3-608(3)(d) MCA.

The above described tract of land is to be known and designated as "KONOSKE RANCH SUBDIVISION", and the lands included in all roadways are hereby granted and donated to the use of the public forever. Unless specifically listed herein, the lands included in all roadways shown dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same. The owners agree that the County has no obligation to maintain the lands included in all roadways shown hereby dedicated to public use.

No parkland is being dedicated to the public.

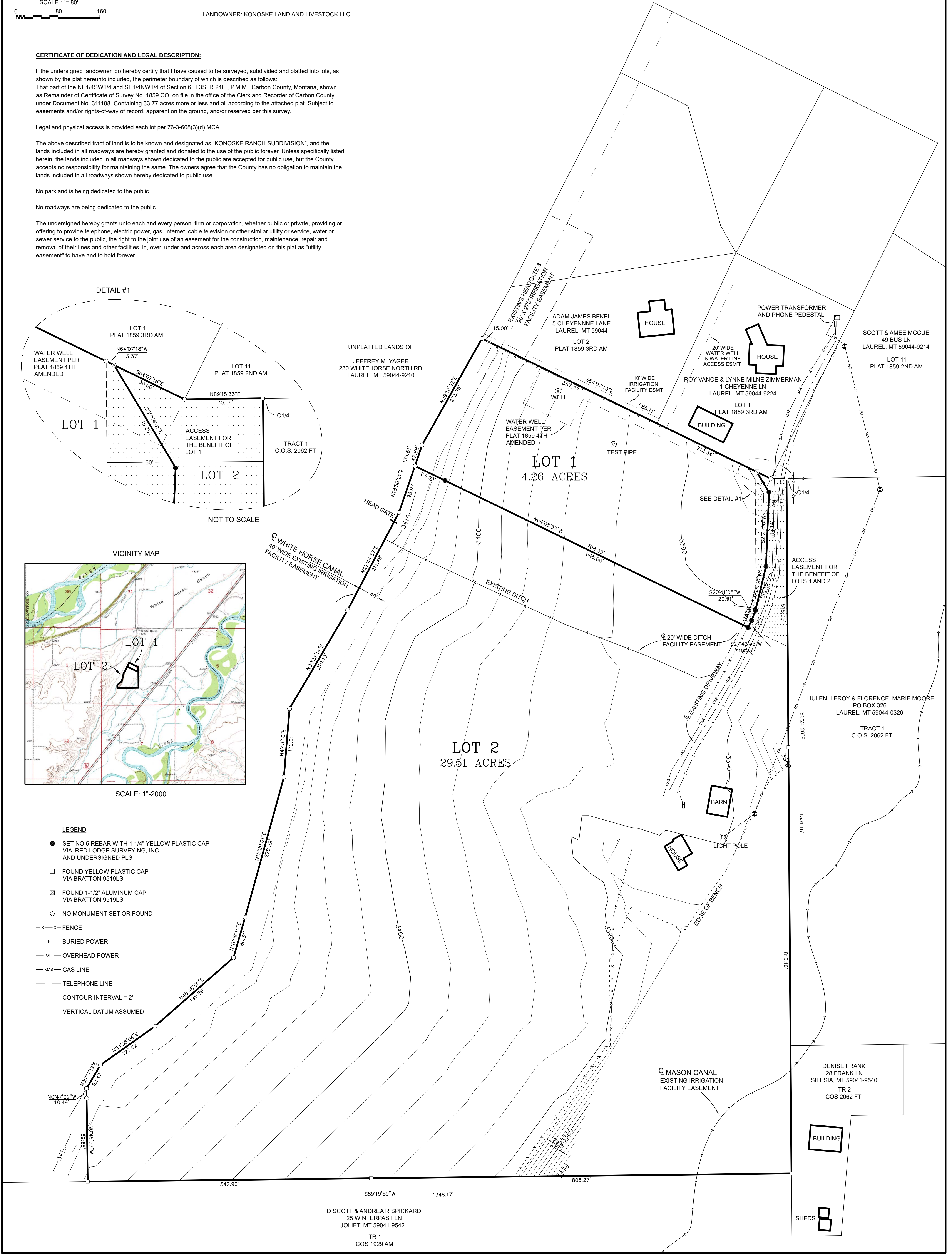
No roadways are being dedicated to the public.

The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, internet, cable television or other similar utility or service, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "utility easement" to have and to hold forever.



LEGEND

- SET NO. 5 REBAR WITH 1 1/4" YELLOW PLASTIC CAP VIA RED LODGE SURVEYING, INC AND UNDERSIGNED PLS
- FOUND YELLOW PLASTIC CAP VIA BRATTON 9519LS
- ▣ FOUND 1-1/2" ALUMINUM CAP VIA BRATTON 9519LS
- NO MONUMENT SET OR FOUND
- x-x- FENCE
- P- BURIED POWER
- OH- OVERHEAD POWER
- GAS- GAS LINE
- T- TELEPHONE LINE
- CONTOUR INTERVAL = 2'
- VERTICAL DATUM ASSUMED



D SCOTT & ANDREA R SPICKARD
25 WINTERPAST LN
JOLIET, MT 59041-9542
TR 1
COS 1929 AM

CARBON COUNTY
Planning Office
P.O. Box 466, Red Lodge, MT 59068
Main: (406) 446-1694
Fax: (406) 446-2640

PROJECT MEMORANDUM

TO: Members of the Carbon County Planning Board

FROM: Forrest J. Mandeville, AICP – Contract Planner

DATE: January 5, 2024

RE: Narrow Gate Subdivision Preliminary Plat Application–Staff Report and Findings

REQUIRED PLANNING BOARD ACTION: Review, receive public comment, and recommendation to approve, conditionally approve, or deny the proposed preliminary plat.

RECOMMENDATION: **Approval with Conditions**

RECOMMENDED MOTION: *Having reviewed and considered the application materials, project memorandum, public comments and all of the information presented, I hereby move to recommend approval of the Narrow Gate Subdivision, with the findings and conditions included in the project memorandum.*

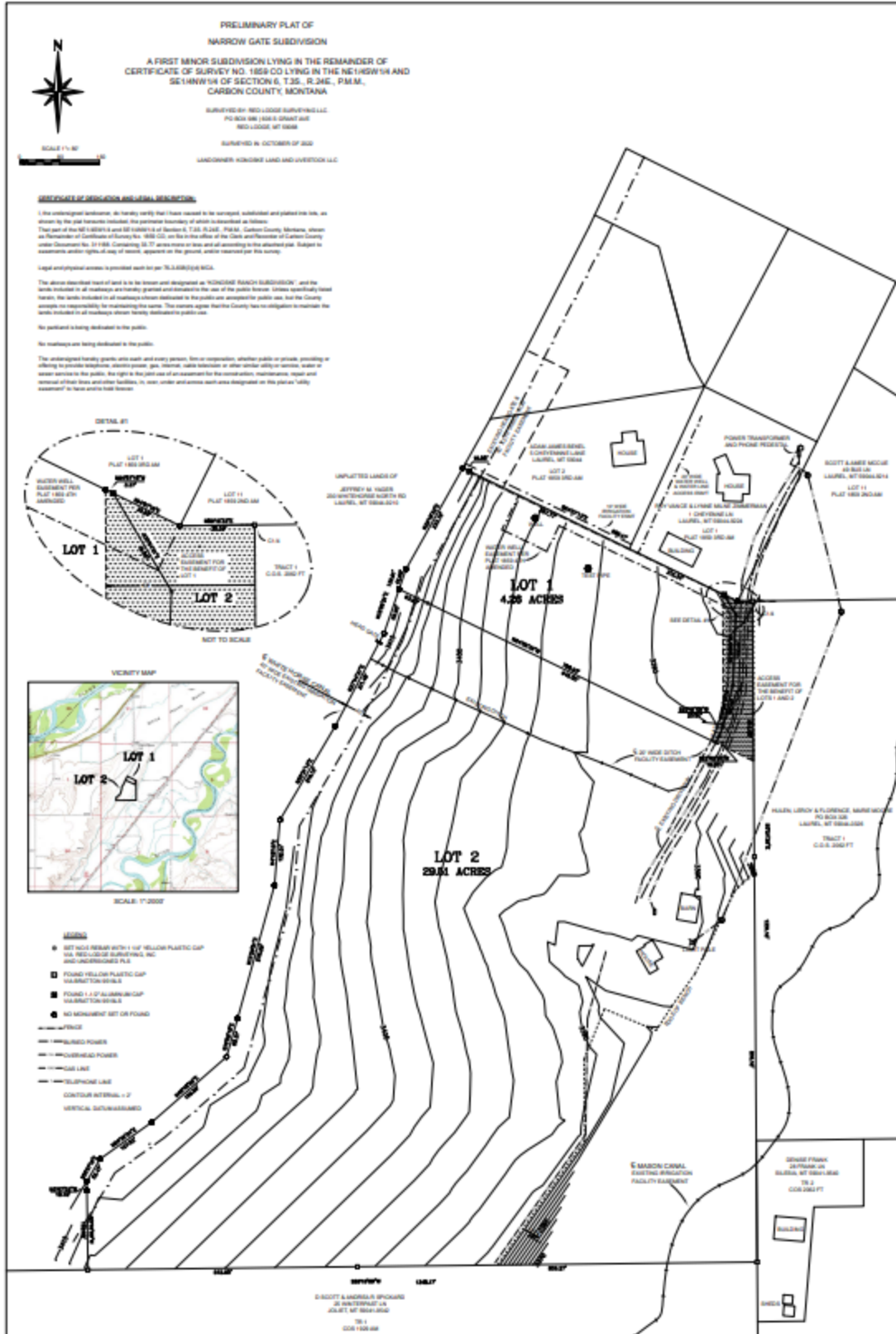
Project/Application Summary:

Engineering West, on behalf of Konoske Land and Livestock, LLC, has submitted a preliminary plat application for a 2-lot subdivision. Red Lodge Surveying is providing surveying services for the proposed subdivision. The subdivision area is approximately 33.77 acres; proposed lots are 4.26 and 29.51 acres in size.

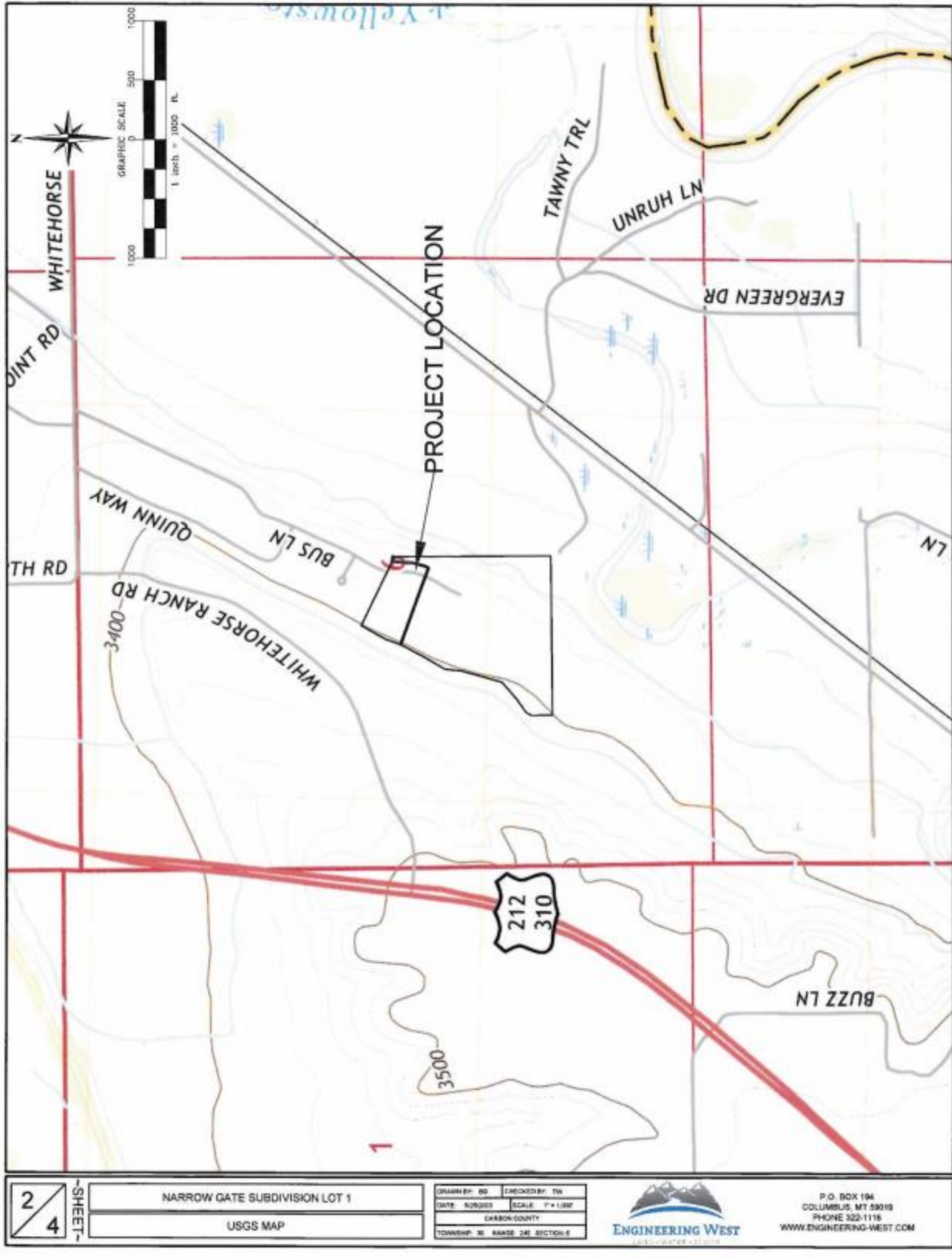
The subject property is located on the south end of Bus Lane, approximately .57 miles from the intersection with White Horse South Road. The property is legally described as the remainder of COS 1859 CO, lying in the NE ¼ SW ¼ and SE ¼ NW ¼ of Section 6, Township 3 South, Range 24 East, P.M.M., Carbon County, Montana.

Required Planning Board Action:

During a public meeting, the Planning Board shall make a recommendation to the County Commission to approve, conditionally approve, or deny the preliminary plat. The Planning Board may recommend conditions for approval intended to ensure compliance with the Subdivision Regulations and to mitigate any anticipated impacts of the subdivision.



Preliminary Plat



Vicinity Map

Subdivision Regulations – Compliance Review/Findings Summary: (Section references are to the Carbon County Subdivision Regulations unless otherwise noted)

a. Relevant evidence relating to the public health, safety, and welfare

Each lot is proposed to utilize individual wells and drainfields located on the lot it serves. There is an existing well and drainfield on Lot 2 serving an existing home. Lot 1 is subject to DEQ review. There is also a water well easement on Lot 1 for the benefit of several existing properties to the north.

Access is provided to the subdivision by Bus Lane. An access easement along an existing driveway will provide legal and physical access from Bus Lane. There are some questions about the ability to expand the use of Bus Lane, a private road owned and maintained by previously established homeowners' associations.

Private covenants are proposed to establish additional restrictions and maintenance requirements on Lot 1.



Access to Subdivision

b. Summary of Probable Impacts

Except where exempt by state law, all subdivisions must be reviewed for the specific, documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety.

- Effect on agriculture: There is no prime farmland, as defined by USDA, on the site, but there is some agricultural activity on the property, which would likely cease on Lot 1 (4.26 acres). Lot 2 is large enough (29.51 acres) that it is likely small-scale agricultural production can continue.

The property is bordered by agricultural land to the west, east, and south. Land to the north has already been subdivided into residential lots. Since access is proposed through existing developed areas, there should be little impacts to agriculture as a result of this subdivision, other than what may have already occurred as a result of other area subdivisions.

Finding: The subdivision will remove some property from agricultural production, but because the subdivision is in close proximity to other residential subdivisions, there should be minimal adverse impacts on agriculture as a result of this subdivision.

- Effect on agricultural water user facilities: The White Horse Canal runs along the west side of the subdivision in a 40-foot-wide easement; the Mason Canal runs through a portion of the southeast corner of Lot 2 and will need to have an easement shown on the final plat. There are also irrigation laterals serving agricultural land on Lot 2. The Subdivision Regulations, Section V-A-18 requires the following statement appear on the final plat: “Nothing herein nor any covenant shall diminish the unobstructed use and maintenance of the existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to land adjacent or to beyond the subdivision in quantities and in a manner that are consistent with historic and legal rights.”

There are existing water rights associated with current uses on Lot 2. No additional water rights for Lot 1 are expected to be required by the DNRC. A request for water right predetermination indicates Lot 1 is expected to require less than 10 acre-feet/year of water for domestic and lawn and garden use.

Finding: As long as an easement for the ditches are provided on the plat, and the required language appears on the plat, and water rights are respected, there should be minimal adverse impacts on agricultural water user facilities as a result of this subdivision.

- Effect on local services: The Carbon County Sheriff’s office will provide law enforcement services to the subdivision. According to documents provided in the subdivision application, Sheriff Josh McQuillan reports the ability to serve the area with a response time of 15-20 minutes.

Finding: This subdivision will have minimal adverse impacts on law enforcement, since services can be provided.

The Laurel Fire Department provides fire protection in the area. Fire Marshal Zack Winchell indicates an expected response time of about 15 minutes. The Department does not consider this to be a high fire hazard area and would need to address additional fire suppression if the property were subdivided further. It should be noted that the private covenants proposed for Lot 1, though not enforced by the County, do not allow further subdivision of the lot. Also, there is an existing dry fire hydrant on the corner of Bus Lane and White Horse S Road, serving Rio Vista Subdivision.



Existing Dry Hydrant

Finding: This subdivision will have minimal adverse impacts on fire protection in the area, since services can be provided.

Bus Lane is a private road established during the platting of previous subdivisions, primarily Quinn Minor Subdivision (1993) and Rio Vista Subdivision (2005). There have been road maintenance agreements and homeowners' associations established that included maintenance provisions for Bus Lane. Konoske Subdivision (2005), just north of this subdivision, also utilizes Bus Lane for access. There is also an access easement established on COS 1859 FT, which is also shown on COS 1859 CO, which created the tract proposed for subdivision. It is unclear if the existing easement contemplates the increased use of the road proposed in this subdivision.

Efforts to contact the existing HOA regarding the use and maintenance of the road have been unsuccessful, according to the applicant. The Rio Vista Estates Subdivision Homeowners Association, Inc., is registered and active-good standing according to the Montana Secretary of State website, which indicates Darci Spitzer is the registered agent. The applicant reports they have been in contact with Janie Withers, who referred them to Cal Christian. On December 18, 2023, the applicant indicated they expect to receive permission to use Bus Lane.

If there is an issue with the legal ability to use the road, it could impact the approval of the subdivision, as Bus Lane is the only access to the property.

There is no road continuity provided to adjacent unsubdivided parcels. The Subdivision Regulations (Section V-A-10.a.iii) allow the County to require rights-of-way be provided and roads be constructed to such land, though this may be waived due to topography or other conditions, or if access is otherwise provided. Surrounding land appears to have access either to Clarks River Road or Highway 212, and the White Horse Canal to the west, Mason Canal and some slope issues to the east, and other topographical issues to the south appear to limit the need to provide access through this property to adjacent lands.



Private Road Sign on Bus Lane



Subdivision (Blue) and Vicinity

Finding: The applicant should continue to research the ability to use the road for the proposed subdivision. The County does not enforce the terms of private covenants or easements.

There are overhead power lines on the property, which provide service to the existing home. Utility easements should be shown on the final plat per section V-A-15.a., and the standard utility language should be placed on the final plat, per section V-A-15.h. of the Subdivision Regulations: “The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the

right to the joint use of an easement for the construction, maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.”

Finding: There will be no significant adverse impacts on utility providers if utility easement are shown on the plat and the standard utility easement language is provided.

- Effect on the natural environment: A new septic/drainfield system is proposed for Lot 1; Lot 2 will utilize existing systems. Individual wells will serve each lot and will be located on the lot they serve. There is an existing easement, shown on the plat, for a well and associated easement which serves four lots in the Konoske Subdivision to the north. There have been concerns expressed about impacts are area wells due to the development of the additional lot.

Review and approval of new septic, well, solid waste, and stormwater drainage is required by the Montana Department of Environmental Quality (DEQ) and the Carbon County Sanitarian, as appropriate. (See Sections IV-B-8.b, V-A-11 through 14, and MCA 76-3-622).

The acquisition of a new water right for the subdivision is not required unless the combined subdivision lots will use 10 acre-feet of water per year, or if a well will pump more than 35 gallons per minute.

Finding: New water, wastewater, stormwater drainage, and solid waste disposal will not have an adverse impact on the natural environment if DEQ and County Sanitarian review and approval is required to be obtained prior to final plat.

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated July 11, 2023. The report indicates bindweed was present, and ground disturbance may result in more weeds. No weed bond was required by the Weed District.

Finding: There should be minimal impacts on the natural environment due to the proliferation of noxious weeds since there were few weeds within the project area.

- Effect on wildlife: Wildlife does frequent the area. However, since the project is in close proximity to existing similar development, no significant adverse impacts on wildlife is anticipated other than what may have already occurred.

Finding: No significant adverse impacts to wildlife is anticipated due to the proximity of existing similar development.

- Effect on wildlife habitat: There has been no critical wildlife habitat identified on the site. The subdivision not within mapped Sage Grouse habitat according to the Montana Sage Grouse habitat Conservation Program.

Finding: There should be no significant impact on wildlife habitat as there is no critical wildlife habitat on the site and the development is within close proximity of other similar developments.

Effect on public health and safety: The Carbon County Sheriff's office provides law enforcement service in the area; the Laurel Fire Department provides fire protection in the area. See discussion and findings under Effect on Local Services.

DEQ and County Sanitarian approval of well and septic provisions is required. See discussion under effects on the natural environment.

Finding: There should be minimal impacts on public health and safety if recommended conditions are imposed.

c. Whether the application and plat conform to the provisions of the following:

- i. The Montana Subdivision and Platting Act: The Plat has been prepared and processed in accordance with the Montana Subdivision and Platting Act (MSPA). The final plat should include a notation that each lot has legal and physical access (76-3-608(3)(d), MCA, and Section IV-B-10.f.v of the Carbon County Subdivision Regulations). There has been some question about the ability of the developer to expand the use of Bus Lane, a private road. Providing evidence of the ability to use the road, such as a letter from the existing HOA, would help ensure legal access is provided.

Finding: Upon compliance with the recommended conditions of approval and adherence to the process outlined in statute, the subdivision will have complied with the MSPA. The developer should provide evidence of the ability to legally use Bus Lane and a statement that the subdivision has legal and physical access should appear on the preliminary plat.

- ii. Compliance with Survey Requirements: The final plat must be in compliance with the requirements of Title 76, Chapter 3, Part 4, MCA, as well as Uniform Standards for Final Subdivision Plats (24.183.1107, ARM). A requirement that, prior to filing, the plat be submitted to the County's Examining Land Surveyor (ELS), and that any comments of the ELS be addressed will ensure survey requirements are followed (Section IV-C-3.b.vi of the Carbon County Subdivision Regulations).

Finding: Upon review by the ELS and the addressing of any comments thereof, survey requirements will have been adhered to.

- iii. The Carbon County Subdivision Regulations: The subdivision, once conditions have been met, will conform to the requirements of the adopted Subdivision Regulations.

The final plat must be substantially similar to the preliminary plat application, except as modified by conditions. If the final plat differs substantially from the preliminary plat, additional review may be required (Section IV-C-5.b of the Carbon County Subdivision Regulations).

The Carbon County Subdivision Regulations, Section IV-B-11 states that a preliminary plat approval is in force for two years. If a final plat is not filed within that timeframe, an extension must be granted or a new application submitted. The County is under no obligation to grant such an extension.

Private covenants are proposed for the subdivision. Though the County does not enforce such covenants, there are standards with which covenants must comply that are outlined in the Subdivision Regulations, Section V-A-23.

A condition requiring final plat preparation to be in conformance with the Subdivision Regulations will ensure compliance with County requirements, even if not specifically discussed in this memorandum.

Finding: To ensure compliance with the Subdivision Regulations, conditions should be required to ensure the final plat is substantially similar to the preliminary plat and plans, that the final plat is filed within two years of preliminary plat approval, and that the final plat be submitted in conformance with the Subdivision Regulations.

- iv. Applicable Zoning Regulations: The Carbon County Development Regulations require a Group 1 Development Permit be obtained prior to residential development.

Finding: The subdivision is in compliance with the Development Regulations as far as applicable. Development permits will need to be obtained prior to development.

- v. Other regulations in effect in the area of the proposed subdivision: There are no other known regulations in effect for the area with which the subdivision would conflict. Private covenants are proposed and should be prepared per the requirements in the Subdivision Regulations and filed with the subdivision.

Finding: The subdivision is not in conflict with any known regulations. Private covenants should meet the requirements of Section V-A-23 and be filed with the final plat.

- vi. Whether DEQ has approved the subdivision for proposed subdivisions that will create parcels of less than twenty (20) acres: DEQ approval is required prior to final plat, as all lots are under 20 acres. (Sections IV-B-8.b.i and V-A-11, 12,13, and 14 of the Carbon County Subdivision Regulations).

Finding: DEQ review and approval of the subdivision should be a condition of final plat approval.

- vii. Whether the subdivider has demonstrated that there is an adequate water source and at least one are for a septic system and a replacement drainfield for each lot for a proposed subdivision that will create one or more parcels containing twenty (20) acres or more: Lot 2 is over 20 acres and has existing well and septic systems.

Finding: Lot 2 has adequate well and septic.

d. Compliance with Growth Policy:

State law, 76-1-605, MCA, requires that after the adoption of a growth policy, the governing body must be “guided by and give consideration to the general policy and pattern of development set out in the growth policy” in the “authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and adoption of zoning ordinances or resolutions.” However, statute also states that “A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy [...]” It is, though, beneficial to examine the proposed subdivision in consideration of the adopted growth policy.

Carbon County adopted the 2020 Growth Policy in March of 2020. Chapter 6 contains goals and objectives for the implementation of the Growth Policy. The following goals and objectives may be relevant to the proposed subdivision:

- Objective 1.3: Assist farmers and ranchers who wish to continue using their lands for agricultural production.
 - 1.3.C. Continue to fund and support an active County weed control program which includes both education and regulation. Streamline the process to treat noxious weeds and recover costs when landowners do not treat their weeds. Continue to require weed inspections and bonding as necessary for any land use change and new development with fees to cover staff time for inspections.
 - 1.3.E. Balance individual property rights with the rights of other property owners and community interests for the public health, safety and welfare of all citizens.
- Objective 1.4: Encourage development in areas that are not in agricultural production
 - 1.4.A. As authorized by the state legislature in 2003, in 76-3-509 MCA, formulate and adopt regulations to encourage cluster development for those developments that meet the definitions.
- Objective 1.7: Direct growth to existing communities, incorporated towns and cities, or platted unincorporated places.
 - 1.7.A. Explore the potential for future land use mapping in areas immediately adjacent to existing communities
 - 1.7.B. Discourage development within the wildland-urban interface.

e. Planning Staff Recommendation:

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision is in compliance with the Montana Subdivision and Platting Act and the adopted Subdivision Regulations.

In consideration of the findings included in this Memorandum, Planning Staff recommends approval of the Narrow Gate Subdivision, pursuant to the following conditions (Section references are to the Carbon County Subdivision Regulations unless otherwise noted):

1. Easements shall be provided for the White Horse Canal and the Mason Canal to allow for the use, maintenance, and inspection of the facilities. (Section V-A-18; Effect on Agricultural Water Users Facilities)
2. The following statement shall appear on the final plat: “Nothing herein nor any covenant shall diminish the unobstructed use and maintenance of the existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to land adjacent or to beyond the subdivision in quantities and in a manner that are consistent with historic and legal rights.” (Section V-A-18; Effect on Agricultural Water User Facilities)
3. Filing of the final plat shall be subject to the review and approval by the Montana Department of Environmental Quality and Carbon County Sanitarian, as appropriate, for water, wastewater, solid waste, and stormwater drainage provisions. (Sections IV-B-8.b.ii and V-A-11, 12,13, and 14; Effect on the Natural Environment; Effect on Public Health and Safety)
4. The final plat shall show the location of all existing and required utility easements. (Section V-A-15.a; Effect on Local Services)
5. The final plat must include the following statement: “The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.” (Section V-A-15.h; Effect on Local Services)
6. A notation shall be provided on the final plat that legal and physical access is provided per 76-3-608(3)(d), MCA. (Section IV-B-11.g.v; Compliance with the Montana Subdivision and Platting Act)
7. Evidence of the legal right to use Bus Lane for access to the subdivision shall be provided, such as a letter from the HOA indicating permission. (Section IV-B-11.g.v; Compliance with the Montana Subdivision and Platting Act)
8. Prior to filing the final plat, the plat shall be submitted to the County Examining Land Surveyor and any comments sufficiently addressed. (Section IV-C-3.b.vi; Compliance with Survey Requirements)
9. The final plat shall be in substantial compliance with the plans and documents submitted as part of the preliminary plat application. (Section IV-C-5.b; Compliance with the Subdivision Regulations)
10. The final plat shall be submitted within two years of the date of preliminary plat approval, or an extension(s) to the approval period obtained. (Section IV-B-11; Compliance with the Subdivision Regulations)
11. The final plat shall be prepared and reviewed in accordance with Section IV-C of the Carbon County Subdivision Regulations. (Compliance with the Subdivision Regulations)

12. Any new private covenants should meet the requirements of Section V-A-23 and be filed with the final plat. (Compliance with the Subdivision Regulations.